

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ROSE CABRERA

(b) County of Residence of First Listed Plaintiff Cumberland, NJ
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Law Offices of Todd B. Jacobs, LLC
30 S. 17th Street, SUITE 810, PHILA, PA 19103

DEFENDANTS

Michaels Stores, Inc.

County of Residence of First Listed Defendant Dallas County, TX
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332(a)(1)

Brief description of cause: Injured left hand/thumb at RETAIL STORE.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

1-26-22

SIGNATURE OF ATTORNEY OF RECORD

Todd B. Jacobs

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ROSE CABRERA
304 Jays Avenue
Williamstown, New Jersey 08094

Plaintiff

NO:

V.

MICHAELS STORES, INC.
8000 Bent Branch Drive
Irving, Texas 75063
and
ABC CORP. 1-20
and
JOHN DOE 1-20

Defendants

CIVIL ACTION COMPLAINT

THE PARTIES

1. Plaintiff, ROSE CABRERA, is an adult individual, residing at 304 Jays Avenue, Williamstown, New Jersey 08094.
2. Defendant, MICHAELS STORES, INC., is a corporation or other business entity authorized and existing under the laws of the State of Texas, maintaining its principal place of business at 8000 Bent Branch Drive, Irving, Texas 75063.
3. Defendants, ABC CORP. 1-20 are corporations, affiliates, subsidiaries and/or partners of the Defendants and/or vendors and/or business entities and/or fictitious corporations designating the owner, operator, maintainer, possessor, lessor, lessee, involved in the maintenance, safety, management, care, custody, control, cleaning, supervision, inspection and/or upkeep of bathrooms located at the subject premises.
4. Defendants, John Does 1-20 are individuals, fictitious names designating the owner, operator, maintainer, possessor, lessor, lessee, agents, servants, workmen and/or employees alter

egos and/or representatives involved in the maintenance, safety, management, care, custody, control, cleaning, supervision, inspection and/or upkeep of the bathrooms located at the subject premises.

5. At all times relevant hereto, the Defendants, jointly, severally and/or individually by and through their respective agents, servants, workmen, employees and/or contractors owned, operated, supervised and/or controlled the bathrooms located inside of the “Michaels” located at 3849 S. Delsea Drive, Suite A-3, Vineland, New Jersey 08360.

JURISDICTION & VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1332(a)(1) in that “the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States.”

7. Venue over this action is appropriate in this matter pursuant to 28 U.S.C. 1391(a)(2), in the District of New Jersey in that it is where a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. Plaintiff reavers and incorporates by reference all of the allegations of Paragraphs 1 through 7, inclusive, and set forth the same as though said Paragraphs were herein provided in full.

9. At all times material to this Civil Action, Plaintiff, ROSE CABRERA, was a business invitee of the Defendants at the “Michaels” located at 3849 S. Delsea Drive, Suite A-3, Vineland, New Jersey 08360.

10. At all times relevant and material to this Civil Action, Defendants, MICHAELS STORES, INC. and/or ABC Corps. 1-20 and/or John Does 1-20, jointly and/or severally owned, controlled, operated, and/or maintained the premises known as “Michaels” located at 3849 S.

Delsea Drive, Suite A-3, Vineland, New Jersey 08360, including but not limited to the bathrooms inside of the said premises.

11. At all times material hereto, Defendants, MICHAELS STORES, INC., and/or ABC Corps. 1-20 and/or John Does 1-20, jointly and/or severally, acted or failed to act by and through their agents, servants, workmen and/or employees who were then and there acting within the scope of their authority and course of their employment with Defendants herein, jointly and/or severally, in furtherance of their business and on their behalf.

12. On or about December 1, 2020, Plaintiff, ROSE CABRERA, was a business invitee lawfully inside of the bathroom at “Michaels” located at 3849 S. Delsea Drive, Suite A-3, Vineland, New Jersey 08360, when an unsecured toilet paper dispenser partially detached from wall and fell on to the Plaintiff’s left hand/wrist, causing the Plaintiff to sustain serious personal injuries hereinafter more fully set forth.

13. The aforesaid incident was due to the negligence and carelessness of Defendants herein, jointly and/or severally and/or individually, and was due, in no way whatsoever, to any act and/or failure to act on the part of Plaintiff, ROSE CABRERA.

COUNT I
PLAINTIFF, ROSE CABRERA V. DEFENDANT, MICHAELS STORES, INC.

14. Plaintiff reavers and incorporates by reference all of the allegations of Paragraphs 1 through 13, inclusive, and sets forth the same as though said Paragraphs were herein set forth at length.

15. The aforementioned incident, and the resulting injuries and/or damages sustained by plaintiff, directly and proximately resulted from the negligence and carelessness of the Defendants, which conduct consisted of:

- a. Failing to properly and adequately maintain the bathroom and toilet paper dispenser in a reasonably safe condition, so that persons would not be unnecessarily or unreasonably be exposed to danger;

- b. Failing to warn persons lawfully upon the premises of said dangerous and hazardous condition;
- c. Failing to implement appropriate remedial measures, by repairing and/or replacing the hazardous dispenser when the Defendant knew, and/or should have known for some time, of the dangerous and hazardous condition of the bathroom;
- d. Causing and/or permitting a dangerous and hazardous condition to exist which the defendant knew or should have known caused an unreasonable risk of harm to plaintiff and others;
- e. Failing to properly inspect and maintain said toilet paper dispenser;
- f. Creating and permitting a foreseeable risk of harm to persons legally permitted to use the bathroom;
- g. Failing to make said premises reasonably safe;
- h. Otherwise defendants were negligent and careless under the circumstances in the hiring, employing and/or promoting the various agents, servants, workmen and/or employees who were responsible and obligated to properly inspect, maintain, and repair the area where this incident occurred.

16. As a direct result of the Defendant's negligence and carelessness, plaintiff sustained injuries to her left thumb and wrist, causing ligament tearing at the base of the thumb, necessitating surgical intervention on two separate occasions, together with other injuries, the exact extent of which are unknown at this time.

17. As a direct result of the negligence and carelessness of the Defendants, Plaintiff has in the past suffered and may in the future suffer physical pain and anguish; she has suffered a loss of the enjoyment of her usual and daily activities and has been in the past and may in the future be hindered from engaging in her usual and daily duties, occupations, pleasures and activities.

18. As a direct result of the aforesaid, Plaintiff has been obliged to receive and undergo medical attention and care and to incur various expenses and she may be obliged to incur such expenditures in the future, some or all of which are recoverable in this matter.

WHEREFORE, Plaintiff, ROSE CABRERA, demands judgment against Defendant, MICHAELS STORES, INC., in her favor, in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with compensatory damages, interest, costs of suit and any other damages allowed by law.

COUNT II
PLAINTIFF, ROSE CABRERA V. DEFENDANT, ABC CORP. 1-20

19. Plaintiff reavers and incorporates by reference all of the allegations of Paragraphs 1 through 18, inclusive, and sets forth the same as though said Paragraphs were set forth herein at length.

20. The negligence and carelessness of Defendant, ABC CORP. 1-20, jointly and/or severally, consisted of the following:

- a. Allowing and causing a dangerous and defective condition to exist on the aforesaid premises, which Defendants herein, jointly and/or severally, knew, or should have known, by the exercise of reasonable care;
- b. Failing to correct said dangerous and defective conditions of which Defendants herein, jointly and/or severally, knew, or should have known, and which constituted a danger to business invitees lawfully thereon, especially Plaintiff herein;
- c. Failing to keep and maintain the aforesaid premises in a reasonably safe condition for use by business invitees, especially Plaintiff herein;
- d. Failing to give warning or notice of the existence of the dangerous and defective condition of the said premises to business invitees, especially Plaintiff herein;
- e. Failing to provide and maintain a safe toilet dispenser for Plaintiff and

other persons lawfully upon the premises;

- f. Disregarding the rights and safety of Plaintiff herein;
- g. Failing to inspect said bathroom at reasonable intervals in order to determine the condition thereof;
- h. Failing to exercise due care under the circumstances;
- i. Failure to repair, fix or cure the aforesaid dangerous condition;
- j. Violating the applicable ordinances, statutes, codes and/or building codes of the County of Camden and/or the State of New Jersey; and
- k. Negligence at law.

21. As a direct and proximate result of the negligence and carelessness of the Defendant, ABC Corp. 1-20, jointly and/or severally, Plaintiff, ROSE CABRERA, suffered the injuries and losses hereinabove described.

WHEREFORE, Plaintiff, ROSE CABRERA, demands judgment against Defendant, ABC Corp. 1-20 jointly and/or severally and/or individually, in her favor, in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00), together with compensatory damages, interest, costs of suit, and any other damages allowed by law.

COUNT III
PLAINTIFF, ROSE CABRERA V. DEFENDANT, JOHN DOE 1-20

22. Plaintiff reavers and incorporates by reference all of the allegations of Paragraphs 1 through 21, inclusive, and sets forth the same as though said Paragraphs were set forth herein at length.

23. The negligence and carelessness of Defendant, JOHN DOE. 1-20, jointly and/or severally, consisted of the following:

- a. Allowing and causing a dangerous and defective condition to exist on the aforesaid premises, which Defendants herein, jointly and/or severally, knew, or should have known, by the exercise of reasonable care;
- b. Failing to correct said dangerous and defective conditions of which Defendants herein, jointly and/or severally, knew, or should have known, and which constituted a danger to business invitees lawfully thereon, especially Plaintiff herein;
- c. Failing to keep and maintain the aforesaid premises in a reasonably safe condition for use by business invitees, especially Plaintiff herein;
- d. Failing to give warning or notice of the existence of the dangerous and defective condition of the said premises to business invitees, especially Plaintiff herein;
- e. Failing to provide and maintain a safe toilet dispenser for Plaintiff and other persons lawfully upon the premises;
- f. Disregarding the rights and safety of Plaintiff herein;
- g. Failing to inspect said bathroom at reasonable intervals in order to determine the condition thereof;
- h. Failing to exercise due care under the circumstances;
- i. Failure to repair, fix or cure the aforesaid dangerous condition;
- j. Violating the applicable ordinances, statutes, codes and/or building codes of the County of Camden and/or the State of New Jersey; and
- k. Negligence at law.

24. As a direct and proximate result of the negligence and carelessness of the Defendant, JOHN DOE. 1-20, jointly and/or severally, Plaintiff, ROSE CABRERA, suffered the injuries and losses hereinabove described.

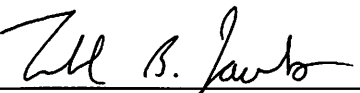
WHEREFORE, Plaintiff, ROSE CABRERA, demands judgment against Defendant, John Doe 1-20, jointly and/or severally and/or individually, in her favor, in an amount in excess


of Seventy-Five Thousand Dollars (\$75,000.00), together with compensatory damages, interest, costs of suit, and any other damages allowed by law.

JURY DEMAND

Plaintiff, ROSE CABRERA, demands a jury trial.

LAW OFFICES OF TODD B. JACOBS, LLC

BY: 
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